

Examiner to at least page 9, lines 3-12 and 27-30, page 10, lines 6-13, and page 15, line 1 – page 16, line 7, for support for certain aspects of at least some of the amended claims.

Claims 1-10, 18-20 and 22-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over “NSP to Install Wireless Network Metering System” (hereinafter “the NSP reference”) in view of “CDMA Gets Its Day in the Sun” (hereinafter “the CDMA reference”).

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the NSP and CDMA references, and further in view of U.S. Patent No. 5,634,101 to Blau.

Claims 12-13, 15-17 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the NSP and CDMA references, and further in view of U.S. Patent No. 5,335,276 to Thompson et al.

The aforementioned rejections are respectfully traversed on the grounds that the cited references neither disclose nor suggest the claims of the present invention, particularly as amended. Reconsideration of the rejected claims in view of the above amendments and/or the following remarks is respectfully requested.

The Claimed Invention

One aspect of the claimed invention is directed to a computer implemented and user interactive method for providing greater software product functionality. In particular, claim 1 is directed to a method for using a computer system that initially utilizes a subset of software product functionality, and that collects data describing the user’s interaction with the subset. The data is analyzed to determine whether at least one data pattern has been identified. Upon identifying at least one data pattern, the computer system initiates communication with a user with regard to the availability of product functionality not within the subset.

The present invention can be utilized, for example, in the context of a voice responsive telephone personal assistant system. In this embodiment, upon identifying at least one data pattern, the system communicates to the user an availability of system functionality that is not within the subset of system functionality initially provided.

As discussed at least on pages 9-10 of the specification, the present invention advantageously enables a portion of software and/or system functionality to be provided in an initial product offering. As user sophistication and/or needs increase, additional functionality can be automatically provided by the system to the user. The system can initiate contact with the user to provide aspects of enhanced software or system functionality on an as-needed basis, thereby advantageously and optionally enabling the initial product offering to be made at a lower price.

The Rejection of Claims 1-10, 18-20 and 22-27 Under 35 U.S.C. § 103(a)

Claims 1-10, 18-20 and 22-27 were rejected as being unpatentable over “NSP to Install Wireless Network Metering System” (hereinafter “the NSP reference”) in view of “CDMA Gets Its Day in the Sun” (hereinafter “the CDMA reference”).

With regard to the applied references, the NSP reference discloses retrofitting electric and gas meters with radio transmitters that read the respective meters. Data regarding customer usage is stored, and customer usage patterns can be examined in increments as frequent as every two minutes. Importantly, the NSP reference does not teach or suggest automatically offering upgrades to a client, let alone using any system components (e.g., the radio transmitters) to offer such upgrades.

As admitted by the Examiner on page 3 of the Office Action, the CDMA reference discloses that “an operator will hand-pick several hundred existing customers based on their usage patterns and offer them CDMA upgrades.” (emphasis added). Importantly, the CDMA reference also does not teach or suggest that the CDMA system automatically initiates communication with and/or offers upgrades to a client. Instead, and as noted above, an operator must hand-pick such clients.

Claim 1 has been amended to patentably distinguish over the combination of the NSP and CDMA references in at least two respects. In particular, the claim 1 now recites “initiating, by the computer system, communication with the user of an availability of product functionality that can be perceived by the user and that is not within the subset.” (emphasis added).

First, as discussed above, the systems disclosed in the NSP and CDMA references do not initiate contact with a user. In particular, the NSP reference does not at all teach or suggest a system that initiates contact with a user, and the CDMA reference explicitly discloses that clients are hand-picked.

Accordingly, this amendment alone renders moot the Examiner's *Remarks* on page 4 of the Office Action pertaining to an operator who will "hand-pick several hundred existing customers based on their usage patterns and offer them CDMA upgrades." In contrast to hand-picking customers, the claimed invention, as noted above, recites "initiating, by the computer system, communication with the user ...of an availability of product functionality ..." (emphasis added). Accordingly, and for at least this reason, claim 1, and dependent claims 2-10, 18-20 and 22-27, when interpreted as a whole, are patentable over the combination of the NSP and CDMA references.

Second, the claimed invention has been amended to recite the step of "providing a computer system that includes a software product that initially provides to the user a subset of software product functionality." To the extent that the Examiner may consider a wireless telephone to be a computer system, the Examiner will also appreciate that wireless telephones are technology-dependent. More particularly, wireless telephones do not accommodate the use of both CDMA and non-CDMA technology. Instead, a wireless telephone will provide, for example, either CDMA technology or non-CDMA technology (but not both). A user would not, therefore, have a wireless telephone that would enable him/her to select a CDMA subset from a CDMA and non-CDMA menu. Accordingly, a wireless telephone alone cannot satisfy "providing a computer system that includes a software product that initially provides to the user a subset of software product functionality," since a wireless handset either provides either a CDMA or a non-CDMA capability. Moreover, the product functionality (e.g., enabling a user to talk on the wireless telephone) of CDMA and non-CDMA wireless telephones is the same. What is different is the underlying technology that enables the functionality. Accordingly, and for at least these reasons,

claim 1, when interpreted as a whole, are patentable over the combination of the NSP and CDMA references.

Dependent claims 2-10, 18-20 and 22-27 are not only patentable by virtue of their dependency from claim 1, but also for the additional features they recite. Claim 9, for example, recites that the system performs “interactively communicating by voice with said user.” Claim 10, for example, recites that the system performs “interactively communicating by a visual mechanism and a tactile response mechanism with said user.” As discussed above, insofar as neither the NSP or CDMA references teach or suggest a system that initiates communication with the user, it should be apparent that claims 9 and 10 recite allowable subject matter for at least this reason.

Claim 18 has been amended to recite the limitations discussed above with regard to claim 1. Accordingly, claim 18, and dependent claims 19-20, when interpreted as a whole, are patentable over the combination of the NSP and CDMA references.

Claim 22, which is directed to a computer implemented apparatus for brokering upgraded resources for enabling greater functionality for a product function, has been amended to patentably distinguish over the combination of the NSP and CDMA references in at least two respects. In particular, the claimed invention now recites “means for initiating, by the apparatus, communication with a user of said product function an availability of said greater functionality ...” (emphasis added). Second, the invention now recites “means for providing to a user a subset of functionality of a software product.”

For at least these reasons, as similarly discussed with regard to claim 1, claim 22, and dependent claims 23 and 24, when interpreted as a whole, are patentable over the combination of the NSP and CDMA references.

Claim 25, which is directed to a computer implemented apparatus for brokering upgraded resources for enabling greater functionality for a product unction, has also been amended to patentably distinguish over the combination of the NSP and CDMA references in at least two respects. In particular, the claimed invention now recites “means for providing to a user a

subset of functionality of a software product.” Second, the claimed invention now recites “means for initiating, by the apparatus, communication with a user of product functionality that is not within the subset when said at least one threshold has been satisfied.” (emphasis added).

For at least these reasons, as similarly discussed with regard to claim 1, claim 25, when interpreted as a whole, is patentable over the combination of the NSP and CDMA references.

The Rejection of Claim 11 Under 35 U.S.C. § 103(a)

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the NSP and CDMA references, and further in view of U.S. Patent No. 5,634,101 to Blau.

Claim 11 depends from claim 1. Blau does not compensate for the deficiencies of either the NSP or CDMA references (as discussed above with regard to acclaims 1-10, 18-20 and 22-27), and provides no indication (explicitly or implicitly) or motivation to produce the various combination of features recited in claim 11.

More particularly, on page 5 of the March 4, 2002 Office Action, the Examiner states that “the prior Office Action does not indicate that Blau teaches ‘determining when to offer greater functionality to a user based upon at least group used data and decisions.’” The Examiner is correct. In the Office Action dated March 29, 2000, the Examiner states that “Blau teaches a method and system for obtaining consumers’ responses about certain products or services that they use.” (emphasis added). Applicants do not discern, nor did the Examiner assert, any teaching in Blau regarding “providing a computer system that includes a software product that initially provides to the user a subset of software product functionality,” or “initiating, by the computer system, communication with the user of an availability of product functionality that can be perceived by the user and that is not within the subset when said at least one data pattern has been identified,” each as recited in the claimed invention, to compensate for at least these deficiencies of the NSP and CDMA references.

Accordingly, Applicants submit that claim 11, when interpreted as a whole, is patentable over the combination of the NSP, CDMA and Blau references.

The Rejection of Claims 12-13, 15-17 and 21 Under 35 U.S.C. § 103(a)

Claims 12-13, 15-17 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the NSP and CDMA references, and further in view of U.S. Patent No. 5,335,276 to Thompson et al.

Independent method claim 12, which is directed to a computer implemented and user assisted method for brokering upgraded functionality in a voice responsive telephone personal assistant system, has been amended in a manner similar to claim 1. In particular, claim 12 now recites “providing a computer system that includes a personal assistant system software product that initially provides to the user a subset of software product functionality.” In addition, claim 12 now recites “initiating, by the personal assistant system, communication with the user ...” (emphasis added).

Insofar as Thompson does not compensate for the deficiencies of the NSP and CDMA references (alone or in combination), Applicants submit that claim 12, and dependent claims 13, and 15-17, when interpreted as a whole, are patentable over the combination of the NSP, CDMA and Thompson references.

Claim 21, which is also directed to a method for brokering upgraded functionality in a voice responsive telephone personal assistant system, has been amended in a manner similar to claim 1. In particular, claim 21 now recites “providing a voice responsive telephone personal assistant system that includes a software product that initially provides to the user a subset of software product functionality.” In addition, claim 21 now recites “initiating, by the voice responsive telephone personal assistant system, communication with the user ...” (emphasis added).

Insofar as Thompson does not compensate for the deficiencies of the NSP and CDMA references (alone or in combination), Applicants submit that claim 21, when interpreted as a whole, is patentable over the combination of the NSP, CDMA and Thompson references.

Newly Added Claims 28-30

It should be apparent that claims 28-30 recite subject matter that is not taught or suggested by any of the applied references. In particular, claims 28 are directed to receiving user input, at the system, that pertains to obtaining enhanced product functionality. Accordingly, Applicants request that claims 28-30 be passed to issue.

In view of the foregoing, Applicants respectfully submit that the cited prior art does not show or suggest the combination of features recited in the claims. Applicants do not concede that the cited prior art shows any of the elements or steps recited in the claims. However, Applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples Applicants have described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicants assert that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, that is patentable. Applicants have emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, Applicants do not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicants are providing examples of why each of the claims described above are distinguishable over the cited prior art.

In view of the foregoing, Applicants respectfully request that claims 1-30 be passed to issue. If there are any matters that would delay this Application from passing to issue, the Examiner is requested, at his earliest convenience, to telephone the undersigned to resolve such matter(s).

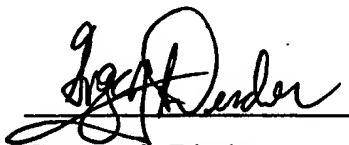
Serial No.: 08/804,900
Attorney Docket No.: 104196.128
Page 9

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for this Amendment, or credit any overpayment to Deposit Account No. 08-0219.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to deposit account no. 08-0219.

Respectfully submitted,



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Attachment 1
(Amended claims)

1 1. (Three Times Amended) A [data processor] computer implemented and user interactive
2 method for brokering upgraded resources [for enabling] that provides greater software product
3 functionality [for a product function] comprising the steps of
4 providing a computer system that includes a software product that initially provides to the
5 user a subset of software product functionality,
6 collecting data describing user interaction with [said product function] the subset,
7 analyzing automatically said data to determine whether at least one data pattern has been
8 identified, and
9 [communicating to a] initiating, by the computer system, communication with the user of
10 [said product function] an availability of [said greater] product functionality that can be
11 perceived by the user and that is not within the subset when said at least one data pattern has
12 been identified.

1 2. (Amended). The method of claim 1 wherein said collecting step comprises the step of
2 collecting interval of use data for said software product.

1 3. (Amended). The method of claim 1 wherein said collecting step comprises the step of
2 collecting statistical data regarding use of said software product.

1 6. (Amended). The method of claim 1 wherein said step of analyzing automatically
2 comprises the step of
3 determining whether any threshold has been [exceeded] satisfied by said collected data.

1 8. (Amended). The method of claim 1 wherein said [communicating] initiating step
2 comprises [the step of] using the computer system to interactively [communicating]
3 communicate with said user.

1 9. (Amended). The method of claim 8, wherein said [communicating] initiating step further
2 [comprising the step of] comprises
3 interactively communicating by voice with said user.

1 10. (Amended). The method of claim 8 wherein said [communicating] initiating step further
2 comprises [the step of]
3 interactively communicating by a visual mechanism and a tactile response mechanism
4 with said user.

1 11. (Amended). The method of claim 1 further comprising the steps of
2 collecting data from a [plurality] group of users,
3 collecting user decisions from [a plurality] the group of users, and
4 determining when to offer greater software product functionality to [a] at least one user
5 based upon at least group user data and decisions.

1 12. (Twice Amended). A computer implemented and user interactive method for brokering
2 upgraded functionality in a voice responsive telephone personal assistant system [for enabling
3 greater functionality for a product function in said system] comprising the steps of
4 providing a computer system that includes a personal assistant system software product
5 that initially provides to the user a subset of software product functionality,
6 collecting data describing user interaction with [said product function] the subset,
7 analyzing automatically said data to determine whether at least one data pattern has been
8 identified, and
9 [communicating to a] initiating, by the personal assistant system, communication with the
10 user of [said personal assistant system] an availability of [said greater] product functionality that
11 is not within the subset when said at least one data pattern has been identified.

1 13. (Amended) The method of claim 12 wherein said analyzing step further comprises the
2 step of
3 identifying a data pattern when at least one user threshold has been [exceeded] satisfied.

1 14. (Amended). The method of claim 13 further comprising the [step] steps of
2 collecting data from a [plurality] group of users,
3 collecting user upgrade decisions from [a plurality] at least a portion of [users] the group,
4 and
5 determining when to offer said greater functionality to a user based upon at least group
6 response data and decisions.

1 15. (Amended). The method of claim 13 wherein said [communicating] initiating step further
2 comprises [the step of]
3 verbally and interactively making an offer, by said system, to said user for greater
4 functionality in using said system.

1 16. (Amended). The method of claim 15 wherein said making step comprises
2 interactively presenting said offer, by said system, for greater functionality in the context
3 of a new message.

1 17. (Amended). The method of claim 12 further comprising the [steps] step of
2 [initially starting said user at a low functionality level, and]
3 offering greater functionality by the system to the user in multiple steps dependent at
4 least upon said data patterns.

1 18. (Three Times Amended). A [data processor] computer implemented and user interactive
2 method for brokering upgraded resources [for enabling] that provides greater software product
3 functionality [for a product function] comprising the steps of
4 providing a computer system that includes a software product that initially provides to the
5 user a subset of software product functionality,
6 collecting use data describing use of [said product function] the subset,
7 analyzing automatically by the computer said data to determine whether at least one use
8 threshold has been [exceeded] satisfied, and
9 [communicating to a] initiating, by the computer system, communication with the user of
10 [said product function] an availability of [said greater] product functionality that can be
11 perceived by the user and that is not within the subset when said at least one threshold has been
12 [exceeded] satisfied.

1 19. (Amended). The method of claim 18 wherein said collecting step comprises [the step of]
2 collecting interval of use data for said product.

1 20. (Amended). The method of claim 18 wherein said collecting step comprises [the step of]
2 collecting statistical data regarding use of said product.

1 21. (Twice Amended). A method for brokering upgraded functionality in a voice responsive
2 telephone personal assistant system for enabling greater functionality for a product function in
3 said system comprising the steps of

4 providing a voice responsive telephone personal assistant system that includes a software
5 product that initially provides to the user a subset of software product functionality,

6 collecting use data describing use of said product function,

7 analyzing automatically said data to determine whether at least one use threshold has
8 been exceeded, and

9 [communicating to a] initiating, by the voice responsive telephone personal assistant
10 system, communication with the user of [said personal assistant system] an availability of [said
11 greater] product functionality that can be audibly perceived by the user and that is not within the
12 subset when said at least one threshold has been [exceeded] satisfied.

1 22. (Twice Amended). A computer implemented apparatus for brokering upgraded resources
2 for enabling greater functionality for a product function comprising

3 means for providing to a user a subset of functionality of a software product,

4 means for collecting use data describing user interaction with said product function,

5 means for analyzing automatically said use data for determining whether at least one data
6 pattern has been identified, and

7 means for [communicating to] initiating, by the apparatus, communication with a user of
8 said product function an availability of said greater functionality when said at least one data
9 pattern has been identified.

1 23. (Amended). The apparatus of claim 22 wherein said collecting means [comprises
2 means for collecting] collects interval of use data for said product function.

1 24. (Amended). The apparatus of claim 22 wherein said collecting means [comprises
2 means for collecting] collects statistical data regarding use of said product.

1 25. (Twice Amended). A computer implemented apparatus for brokering upgraded resources
2 for enabling greater functionality for a product function comprising
3 means for providing to a user a subset of functionality of a software product,
4 means for collecting use data describing use of said product function,
5 means for analyzing automatically said use data for determining whether at least one use
6 threshold has been exceeded, and
7 means for [communicating to] initiating, by the apparatus, communication with a user of
8 [said] product [function an availability of said greater] functionality that is not within the subset
9 when said at least one threshold has been [exceeded] satisfied.

1 26. (Amended). The apparatus of claim 25 wherein said collecting means [comprises
2 means for collecting] collects interval of use data for said product function.

1 27. (Amended). The apparatus of claim 25 wherein said collecting means [comprises
2 means for collecting] collects statistical data regarding use of said product.

1 28. (NEW). The method of claim 1, further comprising the step of receiving at the computer
2 system user input indicating a selection of at a portion of the product functionality not
3 within the subset.

1 29. (NEW). The method of claim 18, further comprising the step of receiving at the computer
2 system user input indicating a selection of at a portion of the product functionality not
3 within the subset.

1 30. (NEW). The method of claim 21, further comprising the step of receiving at the personal
2 assistant system user input indicating a selection of at a portion of the product
3 functionality not within the subset.